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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,475	12/30/2003	Masad J. Damha	MGU-0025	7556

7590 08/07/2007

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EXAMINER	
CHONG, KIMBERLY	
ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
08/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/748,475	Applicant(s) DAMHA ET AL.	
	Examiner Kimberly Chong	Art Unit 1635	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 11-18.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Claims 11-18 remain rejected under 35 U.S.C. 112, first paragraph for the reasons of record mailed 04/17/2007. Applicant argues Examiner did not take note of applicant's traversal of the rejection of record in the reply filed 01/18/2007. Applicant's traversal was on the grounds that the instant invention was adequately described because the instant specification conveyed a core structure. This traversal was addressed in the body of the new rejection of record mailed 04/17/2007. As stated in the previos Office action, the specification does not provide a core structure sequence of inhibitiory agents as claimed that would bind to a RNase H domain of retroid reverse transcriptase and inhibit the activity of a RNase H. The genus of the instantly claimed structure embraces aptamers, decoys and if the transcriptase is a mRNA, embraces siRNA molecules. As such, because the functions of aptamers, decoys and siRNA are diverse and the genus of core structures that provide said functions is large, the instantly claimed structure is not adequately described. Claims 11-18 remain rejected under 35 U.S.C. 103 for the reasons of record mailed 04/17/2007. Applicant argues Wasner et al. do not teach recognition or binding of a 4 nucleotide molecule or a duplex sequence having the sequence UUCG and although Hannoush et al. teach the UUCG sequence, Hannoush et al. do not provide any teaching or suggestion that the UUCG loop sequence is essential for recognition and binding to an RNase H domain of a retroid virus reverse transcriptase. It must be noted that binding of the UUCG loop sequence to the RNAse H domain is not recited as a limitation of the instantly claimed invention. The instant claims are drawn to an inhibitory agent wherein the inhibitory agent binds to the RNase H domain of a reverse transcriptase. Wasner specifically teach an inhbitory agent that binds to the RNAse H domain of a reverse transcriptase and Hannoush et al. provide motivation to incorporate the sequence UUCG for increased structural stability. Applicant provides a declaratiion by Dr. Dahma and argues that the combination of the cited references would not have predicted such a structure that would be selective for the RNAse H activity of retroid virus reverse transcriptase. This argument is no convincing. Selective inhibition of RNAse H is not required by the instant claims. One of skill in the art would only need to predict that the inhibitory agent bind to RNase H domain and inhibit RNAse H activity, as instantly claimed. Wasner et al. and Hannoush et al. provide a reasonable expectation of success given they both teach inhibition of RNase H activity and specifically teach binding to the RNase H domain, as shown by Wasner et al. Therefore, the invention as a whole would have been prima facie obvious to one of skill in the art. New claim 19 will not be entered because it raises new issues that would consider further consideration and a search for inhibitory agents comprising SEQ IDs 2 or 9.

/Sean McGarry/
Primary Examiner
AU 1635